

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ERIC ALEXIS,

Plaintiff,

v.

OFFICER EUGENE LEW,

Defendant.

No. C 16-00905 WHA

**ORDER DISMISSING CASE FOR
LACK OF PROSECUTION**

Plaintiff in this excessive-force action is now proceeding pro se, after he dismissed his attorney and failed to secure new counsel during an eight week stay imposed for the sole purpose of allowing plaintiff to find new counsel. That stay expired on September 15, 2016.

On January 9, 2017, defense counsel filed a discovery letter concerning repeated failures by plaintiff Eric Alexis to appear for his deposition, seeking to dismiss the action for lack of prosecution. On January 10, an order invited defendant to file a formal motion to dismiss with declarations under oath detailing the bases for the motion. That order warned that the conduct described in the letter might warrant dismissal, but that the Court wanted to review a sworn record and to allow plaintiff to respond.

Defendant filed his motion on January 13, supported by the sworn declaration of Attorney Claudia Leed. Attorney Leed's declaration details plaintiff's serial failures to appear for his deposition and his non-responsiveness to defense counsel's good faith efforts to schedule the deposition before the close of discovery. Defendant also submitted a certificate of service,

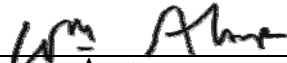
1 averring that his counsel served the motion via U.S. mail and email at the address and email
2 address provided for plaintiff in prior pleadings in which he joined.

3 Plaintiff did not respond.

4 This action is **DISMISSED** for lack of prosecution. Judgment will follow.

5 **IT IS SO ORDERED.**

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7 Dated: January 30, 2017.

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9 WILLIAM ALSUP
10 UNITED STATES DISTRICT JUDGE
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